



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

FILE: [REDACTED] Office: Atlanta

Date:

SEP 26 2000

IN RE: Obligor:  
Bonded Alien:

IMMIGRATION BOND: Bond Conditioned for the Delivery of an Alien under § 103 of the  
Immigration and Nationality Act, 8 U.S.C. 1103

IN BEHALF OF OBLIGOR: Self-represented

INSTRUCTIONS:

**Public Copy**

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

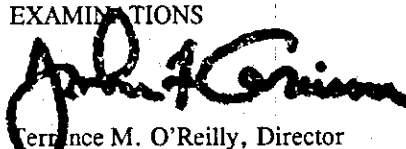
If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

  
Terrence M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the District Director, Atlanta, Georgia, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained.

The record indicates that on December 11, 1997 the obligor posted a \$3,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated October 6, 1998 was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of the Immigration and Naturalization Service (the Service) for removal at 11:00 a.m. on November 5, 1998 at 77 Forsyth Street, Room 105, Atlanta, GA 30303. The obligor failed to present the alien, and the alien failed to appear as required. On December 2, 1998, the district director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that the district director erred in breaching the bond because: (1) he sent the alien notice to appear by sending the alien a Form I-66 "run-letter" contrary to Service regulations and (2) he did not notify the obligor of the alien's scheduled hearing.

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. 103.6(c)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. 103.6(e).

8 C.F.R. 103.5a(a)(2) provides that personal service may be effected by any of the following:

- (i) Delivery of a copy personally;
- (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
- (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;
- (iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

The bond (Form I-352) provides in pertinent part that the obligor "agrees that any notice to him/her in connection with this bond may be accomplished by mail directed to him/her at the above address." In this case, the Form I-352 listed [REDACTED] as the obligor's address.

Contained in the record is a certified mail receipt which indicates that the Notice to Deliver Alien was sent to the obligor at [REDACTED] on October 6, 1998. This notice demanded that the obligor produce the bonded alien for removal on November 5, 1998. The receipt also indicates the obligor received

notice to produce the bonded alien on October 10, 1998. Consequently, the record clearly establishes that the district director properly served notice on the obligor in compliance with 8 C.F.R., 103.5a(a)(2)(iv).

Furthermore, it is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce himself to a Service officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by the Service for detention or removal. The bond agreement is silent as to any requirement compelling the Service to notify the obligor of all bond-related matters, despite the obligor's assertion to the contrary. Similarly, neither the statute, the regulations, nor administrative case law provide support for the obligor's allegation that the Service is required to notify the obligor of all bond-related matters.

The obligor states that it has been relieved from liability on the bond because the Service sent the alien a notice to appear for removal on Form I-166. The obligor states that this is contrary to current Service regulations.

In the Amwest/Reno Settlement Agreement, entered into on June 22, 1995 by the Service and Far West Surety Insurance Company, the Service agreed that a Form I-166 letter would not be mailed to the alien's last known address before, and not less than 3 days after, the demand to produce the alien is mailed to the obligor.

Contained in the record is a certified mail receipt which indicates that the Form I-166 letter was sent to the alien's last known address on October 6, 1998. This notice stated that arrangements have been made for the alien's departure to Honduras on a date to be determined.

The record establishes that the Form I-166 letter was mailed on the same date as the notice to surrender was mailed. This was in violation of the Amwest/Reno Settlement Agreement. Therefore, the appeal will be sustained and the district director's decision declaring the bond breached will be rescinded.

**ORDER:** The appeal is sustained. The district director's decision declaring the bond breached is rescinded and the bond is continued in full force and effect.